

THE HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

vs.

MOTOROLA, INC., et al.,

Defendants.

MOTOROLA MOBILITY, INC., et al.,

Plaintiffs,

vs.

MICROSOFT CORPORATION,

Defendants.

Case No. C10-1823-JLR

MICROSOFT CORPORATION'S
RESPONSE TO MOTOROLA'S
NOVEMBER 28, 2011 MOTION TO
FILE DOCUMENTS UNDER SEAL RE:
OPPOSITION TO MICROSOFT'S
MOTION FOR LEAVE

NOTED FOR:
Friday, December 9, 2011

I. Microsoft Does Not Oppose Motorola's Motion to Seal.

Microsoft does not oppose Motorola's November 28, 2011 Motion to File Documents Under Seal Re Opposition to Microsoft's Motion for Leave to File Supplemental Declaration (Dkt. No. 122). Additionally, for the same reasons as set forth in Motorola's Motion to Seal, Microsoft is required to file certain documents under seal.

II. On the Basis of Motorola's Motion to Seal, Microsoft Is Required To File Certain Related Documents Under Seal.

To the extent that Motorola establishes a proper basis for sealing the documents that are the subject of its Motion to Seal, Microsoft is required to file certain related materials under seal. Specifically, Microsoft is obligated to file the following items under seal, for the reasons detailed below:

1. Limited portions of Microsoft's Reply in Support of Its Motion for Leave to File Supplemental Declaration of Christopher Wion in Support of Motion for Partial Summary Judgment (the "Reply in Support of Motion for Leave");
2. Limited portions of the December 2, 2011 Declaration of Christopher Wion In Support of Motion for Leave to File Supplemental Declaration (the "12/2/11 Wion Declaration");
3. Limited portions of Exhibit 2 to the Wion Declaration; and
4. The entirety of Exhibit 1 to the Wion Declaration.

A. Items 1, 2 and 3 Reference Documents that Motorola Is Seeking to Seal.

Microsoft's (1) Reply in Support of Motion for Leave, (2) the Wion Declaration and (3) Exhibit 2 to the Wion Declaration each refer to and describe documents that are the subject of Motorola's Motion to Seal.¹ Motorola has described the relevant documents it is seeking to seal as containing confidential licensing communications between Motorola and a certain third party, which information is "highly confidential and proprietary business information." Motion to Seal, pp. 4-5.

In light of Motorola's pending request that the Court seal certain of the documents referenced in Microsoft's various submissions, Microsoft is required to file Items 1, 2 and 3 under seal. Microsoft has endeavored to redact the minimum amount of material from the publicly filed versions of these documents, consistent with Motorola's pending Motion to

¹ Item 1 also refers to and describes documents that are the subject of Microsoft's November 14, 2011 Motion to Seal (Dkt. No. 110), specifically the November 10, 2011 Declaration of Jennifer Ochs.

1 Seal and Microsoft's obligations under the stipulated Protective Order approved by the
2 Court on July 21, 2011 (Dkt. No. 72).

3 **B. Item 4 Consists of a Licensing Document that Motorola Is Seeking to**
4 **Seal and Has Designated As Confidential.**

5 Exhibit 1 to the Wion Declaration consists of certain email correspondence that
6 Motorola is seeking to seal² as well as a licensing document referenced in that email, which
7 Motorola has produced to Microsoft with the designation "Contains Motorola Mobility,
8 Inc. and/or Third Party Confidential Business Information, Subject to Protective Order --
9 Attorneys' Eyes Only." For the reasons set forth in Motorola's Motion to Seal, and under
10 the terms of the governing Protective Order, Microsoft is required to file the entirety of
11 Exhibit 1 to the Wion Declaration under seal.

12 Nothing herein is intended as a waiver of Microsoft's right to contest Motorola's
13 designation of material as Confidential in accordance with the terms of the Protective
14 Order. Microsoft expressly reserves the right to do so as the circumstances warrant.

15 DATED this 2nd day of December, 2011.

16 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

17 By /s/ Christopher Wion
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² Exhibit 11 to the Declaration of Timothy Kowalski (attached as Exhibit A to the Declaration of Kevin Post (Dkt. No. 124)).

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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